IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Steven Robbins
Art unit: 3208
Serial No.: 08/873,876
Examiner: M. Patterson
Filed: June 12, 1997
Title: RESILIENT SOLE FOR USE IN ARTICLES OF FOOTWEAR TO ENHANCE BALANCE AND STABILITY

Assistant Commissioner for Patents
Washington, DC 20231

DECLARATION UNDER 37 CFR §1.132

I, Steven Robbins, declare as follows:

1. I have examined Pendergast, United States Patent No. 4,633,877. Based on this examination, I am aware of one instance in which the patent refers to specific materials to be used to form the segments of the "control" layer of the orthotic device:

> A preferred material for fabrication of the segments 20-36 is polyvinylchloride foam.
> A closed cell microcellular polyethylene material has also been found to be highly effective for the variable durometer material of the invention. (Col. 6, lines 28-32.)

2. I have conducted or had conducted on my behalf resiliency testing of numerous commercially available PVC foams, including the common PVC foams used in footwear. For each material, the testing determined a resiliency index as a ratio (R-M) / (P-M), where R is the maximum recovered thickness within one second immediately following removal of a main load, M is a thickness measured when both a pre-load and the main load are applied, and P is a thickness measured when only the pre-load is applied. With this definition, the resiliency index will have a value between 1, indicating high resiliency, and 0, indicating low resiliency. The testing revealed that all but

one of the PVC foams, including all the PVC foams commonly used in footwear, had a resiliency index greater than 0.6.

3. The testing indicated that the single PVC foam which had a resiliency index less than 0.6 had, more precisely, a resiliency indix of 0.156.

4. The PVC foam that featured the resiliency index of 0.156 is marketed for use as underpadding for carpeted tennis courts and is therefore not used in common footwear.

5. I have conducted or had conducted on my behalf testing of numerous commercially available polyethylene foams, including the common polyethylene foams used in footwear. The testing indicated that all of these materials had a resiliency index greater than 0.6.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and/or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Date: APR. 20. 2000

Steven Robbins